

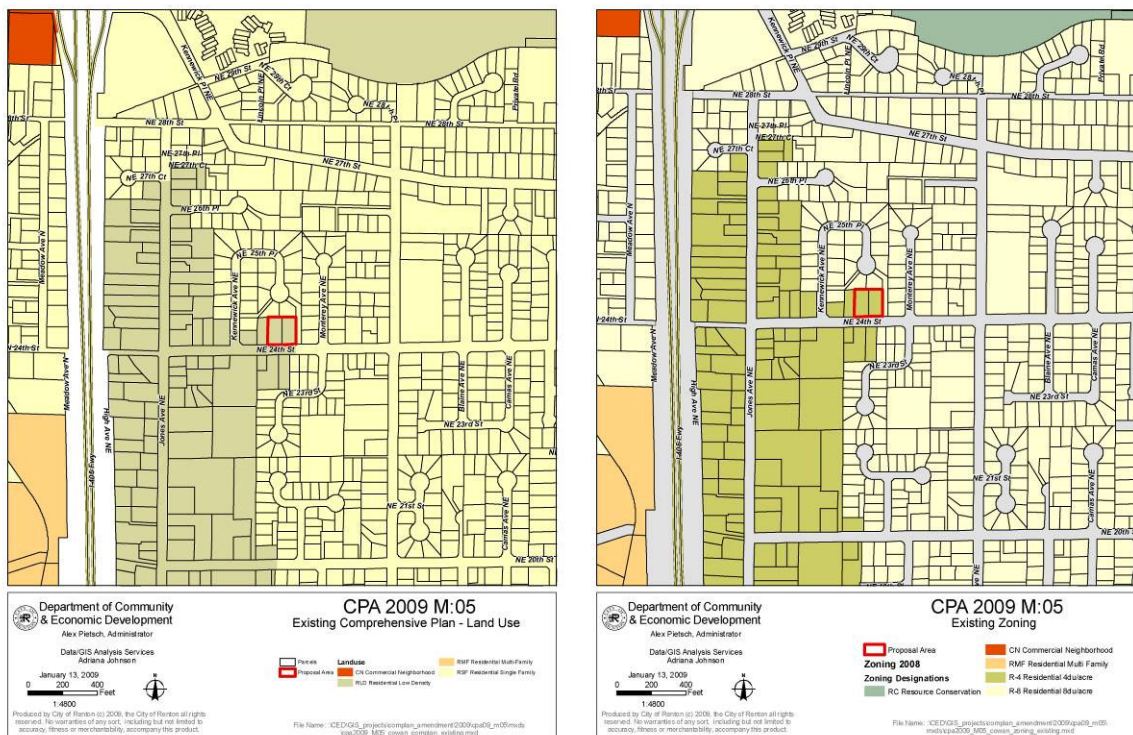
## CPA #2009-M-05 COWAN REZONE

Initiated by: John Cowan

Applicant: John Cowan

### General Description

This Comprehensive Plan amendment and rezone was initiated by John Cowan to change the designation of his property (Tax Parcels 813210-0120 and -0130, totaling 25,500 square feet) in upper Kenedydale from Residential Low Density (RLD) to Residential Single Family (RS) land use designation and from Residential Four Units per Net Acre (R-4) to Residential Eight Units per Net Acre (R-8) zoning. Mr. Cowan's property was changed to its current land use and zoning designation by a City-initiated Comprehensive Plan Amendment and rezone (CPA #2006-M-08) in 2006, and he claims that his property was included in error.



### Impact Analysis

Effect on rate of growth, development, and conversion of land as envisioned in the Plan

Under the current RLD Comprehensive Plan designation and R-4 zoning, Mr. Cowan's two parcels would only be eligible for a maximum of two single family homes. Under the proposed changes to the RS Comprehensive Plan designation and R-8 zoning, the same properties could potentially be eligible for up to four single family homes. This assessment only represents the theoretical maximum development potential of the properties under the proposed Comprehensive Plan amendment and rezone. The eligibility of these properties to further subdivide and develop would need to be assessed through a formal application for subdivision. Other properties in this vicinity have encountered a number of challenges to development that were not possible to identify until submittal of a development application. As a result, such properties were not able to develop to maximum potential.

Both the current designation and zoning (RLD/R-4) and the proposed designation and zoning (RS/R-8) are consistent with the rate of growth, development, and conversion of land as envisioned in the Plan. Objective LU-FF calls for high quality residential growth that provides urban densities, promotes efficient land utilization, and creates stable neighborhoods that incorporate both built and natural features.

Effect on the City's capacity to provide adequate public facilities

This area is already served by water and sewer infrastructure, as well as roads, parks, and transit. City services including police, fire, emergency response, and refuse collection are already in place. The increase in development potential under the proposal would not affect the ability of the City to provide adequate public facilities.

Effect on the rate of population and employment growth

This proposal has no effect on employment growth and an insignificant effect on population growth. At most, there would be two additional housing units to accommodate growth. Growth projections in the Comprehensive Plan Capital Facilities element show that the City's growth target for 2022 is 6,198 units with capacity established through buildable lands analysis of 11,261 units.

Whether Plan objectives are being met as specified or remain valid and desirable

Plan objectives can be met whether the proposal is approved or denied. See section on "Consistency with GMA, the Plan, and Countywide Planning Policies (below) for further discussion.

Effect on general land values or housing costs

There is no effect on general land values or housing costs.

Whether capital improvements or expenditures are being made or completed as expected

Not applicable.

Consistency with GMA, the Plan, and Countywide Planning Policies

Both the current Comprehensive Plan designation and zoning and the proposed amendment are consistent with the City of Renton Comprehensive Plan. Objective LU-HH states the purpose of the RLD designation is to provide for a range of lifestyles compatible with urban development in areas constrained by natural features. (See "Effect on critical areas and natural resource lands" section for further discussion on the natural features affecting this proposal). Objective LU-JJ states that the purpose of the RS designation is to encourage re-investment and rehabilitation of existing housing and the development of new residential plats. The key question to be asked in reviewing this proposal is not whether the proposal or the current condition is most consistent with the Comprehensive Plan, but which objective of the Plan should be implemented.

The same applies to the question of consistency with the Growth Management Act (GMA). GMA asks jurisdictions to implement thirteen different goals in their Comprehensive Plans and development regulations. Jurisdictions are given the discretion and authority to balance the implementation of these goals in accordance with local priorities, as long as the goals are met. In

this case, the goals that must be balanced include promoting urban levels of development where adequate facilities and infrastructure already exists, and the goal of protecting the environment. Renton's Critical Areas Ordinance should be adequate to meet the goal of protecting the environment, regardless of the Comprehensive Plan designation or zoning of the property. Likewise, as discussed in the section above on the "Effect on population growth and employment," the City has adequate capacity to meet its growth targets.

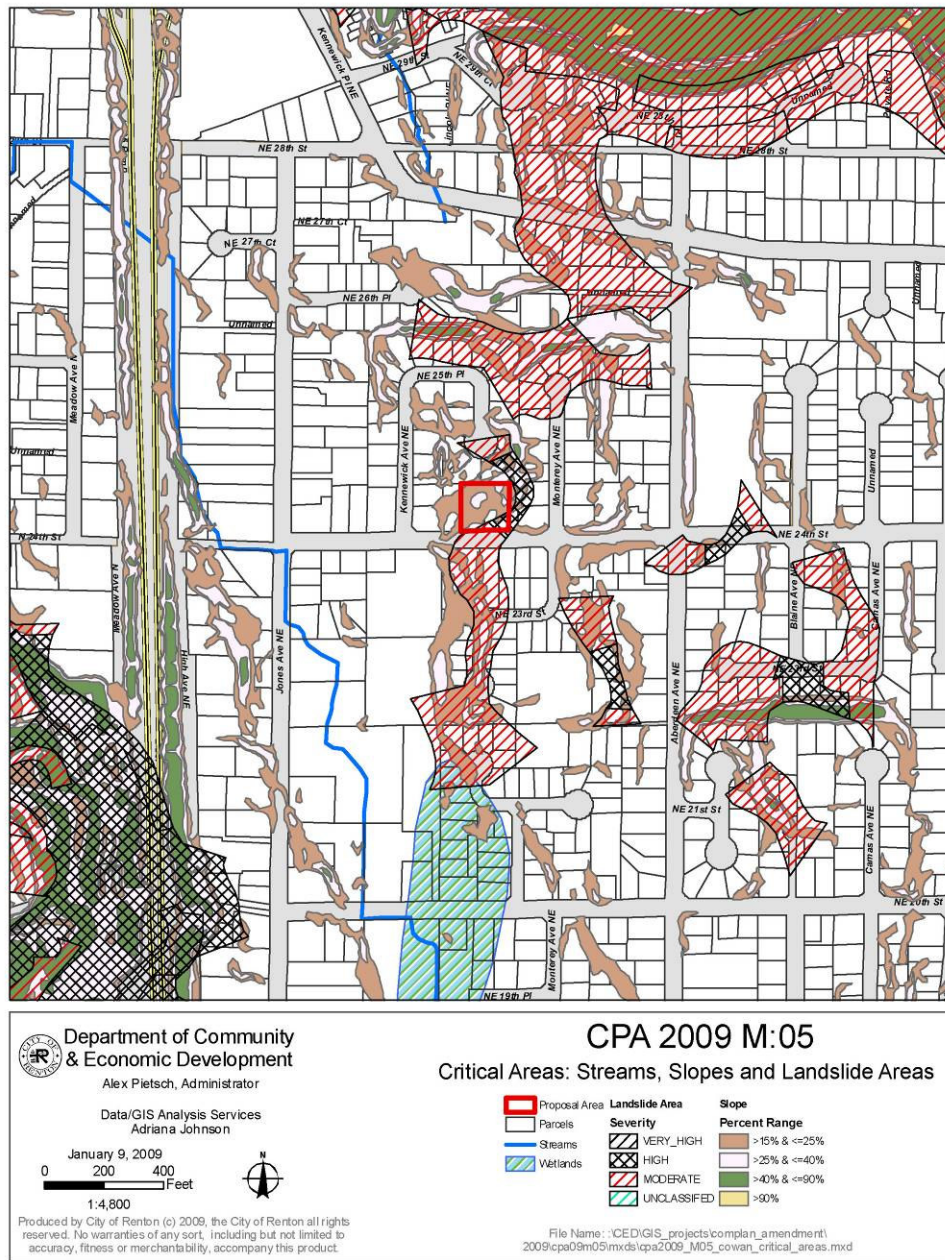
Like GMA and the Comprehensive Plan, both the proposal and the current situation are consistent with Countywide Planning Policies. Policy FW-4 directs jurisdictions to protect natural ecosystems with their Comprehensive Plan policies and development regulations. Policy LU-66 encourages efficient growth within urban areas that provide infrastructure. Both policies can be met with or without the proposal; it is again a matter of whether the emphasis should be on managing growth or protecting the environment.

#### Effect on critical areas and natural resource lands

In 2006, 36.5 acres (which include the properties subject to this proposal) in the Upper Kennydale area were redesignated to RLD and downzoned to R-4 in attempt to prevent cumulative effects to the hydrology and critical areas in this vicinity. Development within the 2006 rezone area had organically occurred at a level of intensity consistent with RLD designation and R-4 zoning, even though the area had been designated for higher intensities at RS with R-8 zoning. Around the 2006 rezone area, development occurred at a similar level of intensity until the 1990s. After this point, some areas began to develop at higher levels of intensity, consistent with the RS designation and R-8 zoning in place.

Although City requirements for the protection of critical areas were followed, neighbors began to notice changes to the hydrology of the area that increased as the number and intensity of housing development in the area increased. A 2006 memo to the City from Cedarrock Consultants characterized the hydrology of the area as a sheet flow. This is a very sensitive hydrology system that is easily altered by human activity. The few mapped (hydrologic) critical areas in Upper Kennydale included a large peat wetland (which had naturally formed at the lowest spot and collected the sheet flow), and a stream that was created in the early 20<sup>th</sup> century out of a hand dug ditch. As development intensity increased around these areas, sheet flow was diverted and property owners began noticing the changes. Even the development of properties not characterized as having critical areas was likely creating some impact.

In attempt to slow and prevent cumulative impacts to the hydrology of the area, the City initiated a downzone of the Upper Kennydale area. Much of the area had already been platted or subject to infill near the maximum allowance under the RS designation and R-8 zone. Lot sizes were analyzed to capture and preserve as much of the area characterized by lower intensity development, consistent with RLD designation and R-4 zoning, as possible. A boundary was drawn around the 36.5 acres that were rezoned with the intent of both preventing further intensification of development in the area, as well as, limiting the amount of non-conformity that would be created for parcels that had already developed. Platted subdivisions, for example, were excluded from the rezone area.



The proposal area for this rezone consists of two parcels on the northern boundary of the 2006 rezone area. These parcels are about 600 feet away from the Type Four stream (originally the hand dug ditch) that drains into Kennydale Creek, and approximately 750 feet north of a large, mapped wetland. As a result, the property is far enough away from these critical areas that it is not subject to Renton Critical Areas Regulations for wetlands or streams. The development of these parcels under the proposed intensity of RS designation and R-8 zoning may contribute to cumulative impacts on the hydrology of the area.

Other mapped critical areas on the site include geological hazards. A "high" landslide hazard is mapped on a portion of the property, primarily the southeast corner of the easternmost lot. This would not prevent development of the lot under the current conditions or under proposal, but it



might affect the maximum development potential of the lot under the proposal. Topographical maps show slopes in the 15-20 percent range for both parcels, which is below the threshold for regulation under the Critical Areas Ordinance.

#### Effect on other considerations

One of the major considerations in this application is whether or not it is appropriate to reverse a previous Council decision (made during the 2006 Comprehensive Plan Amendment cycle) to designate this property RLD and zone it R-4. This decision was appealed to the Central Puget Sound Growth Hearings Board and to Superior Court, and was affirmed by both bodies. The City would not want to re-open a discussion that could subject it to further appeal. A further consideration is whether Mr. Cowan's properties are subject to a unique situation that other properties subject to the 2006 Upper Kenndale Rezone are not. If Mr. Cowan's properties are in a unique situation, there may be more justification for recommending the proposal to return the properties to RS designation and R-8 zoning. If the properties are not uniquely situated, the proposal should be denied, to prevent the arbitrary application of Comprehensive Plan land use designation and zonings that give one person an advantage over another.

The applicant contends that his property was included in the 2006 Upper Kenndale rezone in error. If his property was erroneously included in the 2006 rezone, then it would not be a reversal of the Council's policy decision. Mr. Cowan's contention is that because there are no wetlands on his property, there is nothing gained from the rezone of his property. Staff contends that this may not necessarily be the case, given the natural sheet flow hydrological conditions in the Upper Kenndale area, as discussed in the above section "Effect on critical areas and natural resource lands." On the issue of critical areas and environmental protection alone, it is not clear that there was an error made.

However, Mr. Cowan also contends that his lots are part of an existing subdivision (the 1994 Sunset Hills plat). As such, the character of the properties surrounding him are more consistent with RS land use designation and R-8 zoning. In fact, only four lots of the Sunset Hills subdivision were included in the 2006 Upper Kenndale Rezone boundary. Three are in Mr. Cowan's ownership. He applied for a CPA and rezone on Lots 12 and 13, and his home sits on Lot 11. The fourth lot (Lot 1 of Sunset Hills) is in another ownership, but is contiguous with Mr. Cowan's properties on NE 24<sup>th</sup> Street. The character of the Sunset Hills subdivision is consistent with RS land use designation and R-8 zoning in general, as is the area just east. Mr. Cowan's properties are somewhat larger than most in the plat. However, the properties to the south and east are characterized by larger parcels and less intense development. Approval of the proposal on the basis that all the lots of the Sunset Hills subdivision are similar situated and should be subject to the same land use designation and zoning, would reflect a correction of an error made in 2006. It also would not pose a challenge to the Council's 2006 decision to emphasize environmental protection in this area.

#### **Review Criteria**

RMC 4-9-020G states that the proposal shall demonstrate that the requested amendment is timely and meets at least one of the following criteria:

1. The request supports the vision embodied in the Comprehensive Plan, or

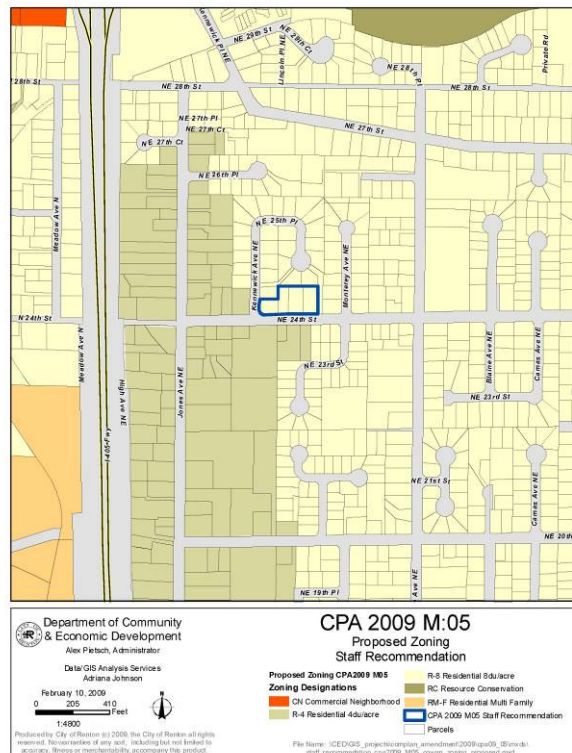
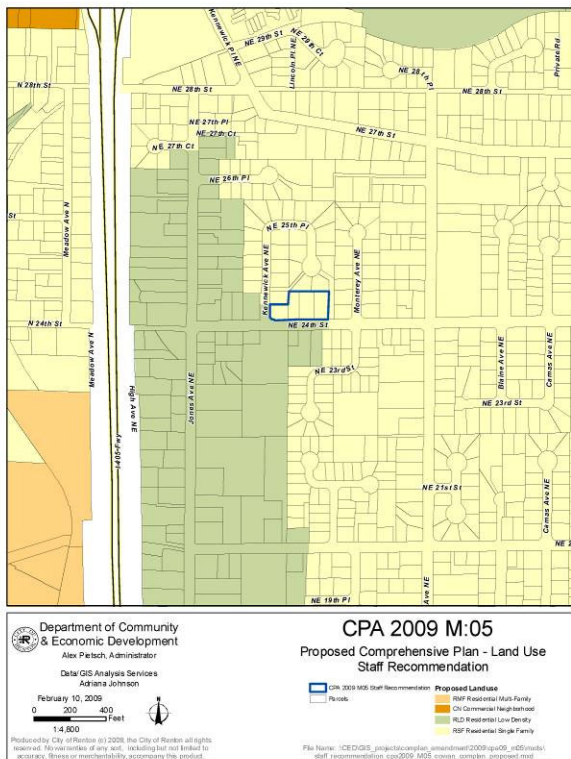
2. The request supports the adopted business plan goals established by the City Council, or
3. The request eliminates conflicts with existing elements or policies, or
4. The request amends the Comprehensive Plan to accommodate new policy directives of the City Council.

This amendment meets Criteria #3. Approval of this application would correct an error in the inconsistent application of City Comprehensive Plan policies. See Staff Recommendation below.

### Staff Recommendation

Staff recommends approval of the proposal on the basis that all of the lots of the Sunset Hills subdivision are subject to the same character, and as such are similarly situated. Since the majority of the Sunset Hills subdivision was excluded from the 2006 Upper Kennydale rezone, the entire plat should be treated the same.

However, if the proposal is to be approved, it should also include the redesignation and rezone of lots 1 and 11 of Sunset Hills as well. Lots 1 and 11 are currently fully developed and the proposal would not affect their development potential, but they should be included in this rezone for the sake of ensuring the consistent application of City Comprehensive Plan policies and development regulations.



### Implementation Requirements

Amend the Comprehensive Plan Map to change the Land Use designation to RS from RLD for lots 1, 11, 12, and 13 of the Sunset Hills Subdivision. Concurrently amend the Zoning Map to change the zoning of the same parcels to R-8 from R-4.